

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
FILED
APR 22 2013

JAMES W. McCORMACK, CLERK
By: Sous
DLP CLERK

SHAWN PIERCE,)
Plaintiff,)
v.)
EOS CCA f/k/a COLLECTION)
COMPANY OF AMERICA)
Defendant.)

4:13-cv-243 BSM

This case assigned to District Judge Miller
and to Magistrate Judge Kay

COMPLAINT

NOW COMES the Plaintiff, SHAWN PIERCE, by and through his attorneys, SMITHMARCO, P.C., and for his complaint against the Defendant, EOS CCA, Plaintiff states as follows:

I. PRELIMINARY STATEMENT

1. This is an action for actual and statutory damages for violations of the Fair Debt Collection Practices Act (hereinafter "FDCPA"), 15 U.S.C. §1692, et seq.

II. JURISDICTION & VENUE

2. Jurisdiction arises under the FDCPA, 15 U.S.C. §1692 et seq., and pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1337.

3. Venue is proper in this district pursuant to 28 U.S.C. §1391(b).

III. PARTIES

4. SHAWN PIERCE, (hereinafter, "Plaintiff") is an individual who was at all relevant times residing in the City of Benton, County of Saline, State of Arkansas.

5. The debt that Plaintiff was allegedly obligated to pay was a debt originally allegedly owed by Plaintiff to AT&T MOBILITY (hereinafter, "the Debt").

6. The debt that Plaintiff allegedly owed AT&T MOBILITY was for a cellular telephone bill, which was for the personal use of Plaintiff and/or used for household expenditure.

7. Upon information and belief, EOS CCA purchased, acquired and/or otherwise obtained the debt for the purpose of collection from Plaintiff.

8. At all relevant times, Plaintiff was a "consumer" as that term is defined by 15 U.S.C. §1692a(3).

9. EOS CCA, (hereinafter, "Defendant") is a business entity engaged in the collection of debt within the State of Arkansas. Defendant is incorporated in the State of Illinois.

10. The principal purpose of Defendant's business is the collection of debts allegedly owed to third parties.

11. Defendant regularly collects, or attempts to collect, debts allegedly owed to third parties.

12. During the course of its efforts to collect debts allegedly owed to third parties, Defendant sends to alleged debtors bills, statements, and/or other correspondence via the mail and/or electronic mail and initiates contact with alleged debtors via various means of telecommunication, such as the telephone and facsimile.

13. At all relevant times, Defendant acted as a debt collector as that term is defined by 15 U.S.C. §1692a(6).

14. At all relevant times, Defendant acted through its duly authorized agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

IV. ALLEGATIONS

15. In or around July 2011, Plaintiff applied for a home loan.
16. In or around July 2011, Plaintiff noticed that his credit report listed a past due account with EOS CCA f/k/a Collection Company of America, with an outstanding balance of \$1,102 under account number ****5742.
17. The aforesaid credit report listed AT&T MOBILITY as the original creditor.
18. In or around July, 2011, Defendant sent Plaintiff a correspondence in an attempt to collect the Debt.
19. The aforesaid correspondence was the initial communication between Plaintiff and Defendant.
20. The aforesaid correspondence informed Plaintiff that he had the right to seek validation for the alleged debt within thirty (30) days of receipt of said correspondence.
21. Thereafter, on or about July 29, 2011, within thirty (30) days of receipt of Defendant's correspondence, Plaintiff sent Defendant, via certified mail return receipt requested, a written request for validation of the Debt. (A true and exact copy of the correspondence, dated July 30, 2011, is attached hereto as **Exhibit A**).
22. Defendant never sent Plaintiff validation of the Debt.
23. Plaintiff has never received validation for the Debt.
24. On or about December 20, 2012, Defendant sent Plaintiff further correspondence in an attempt to collect the Debt. (A true and exact copy of the correspondence, dated December 20, 2012, is attached hereto as **Exhibit B**).
25. The aforesaid correspondence listed the principal amount of the Debt as \$1,102.66.

26. The aforesaid correspondence identified AT&T MOBILITY as the original creditor.

27. The aforesaid correspondence listed the account number for the Debt as ***0553.

28. Despite indicating a different account number for this debt, upon information and belief, in its correspondence of December 20, 2012, Defendant was attempting to collect the identical debt as listed in its correspondence of July, 2011.

29. Subsequent to the receipt of the aforesaid correspondence, on or about December 26, 2012, Plaintiff sent Defendant, via certified mail return receipt requested, a second written request for validation of the Debt. (A true and exact copy of the correspondence, dated December 26, 2012, is attached hereto as Exhibit C).

30. Defendant never sent Plaintiff validation of the Debt.

31. Plaintiff has never received validation for the Debt.

32. On or about January 9, 2013, Plaintiff again reviewed the information contained in his credit report.

33. Plaintiff's credit report reflected that the Debt was listed under account number ***0553.

34. Plaintiff's credit report further reflected that the Debt was not reported as disputed.

35. In its attempts to collect the debt allegedly owed by Plaintiff to AT&T MOBILITY, Defendant violated the FDCPA, 15 U.S.C. §1692, in one or more of the following ways:

- a. Communicated or threatened to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed in violation of 15 U.S.C. §1692e(8);

- b. Continued to attempt collection of the debt allegedly owed by the consumer despite having failed to mail to the consumer verification of the debt by the original creditor or the name and address of the original creditor in response to receiving a timely written notification from the consumer that the debt was disputed or notification that the consumer requests the name and address of the original creditor in violation of 15 U.S.C. §1692g(b); and,
- c. Was otherwise deceptive and failed to comply with the provisions of the FDCPA.

36. As a result of Defendant's violations as aforesaid, Plaintiff has suffered, and continues to suffer, personal humiliation, embarrassment, mental anguish and emotional distress.

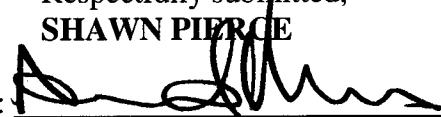
V. JURY DEMAND

37. Plaintiff hereby demands a trial by jury on all issues so triable.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, SHAWN PIERCE, by and through his attorneys, respectfully prays for Judgment to be entered in favor of Plaintiff and against Defendant as follows:

- a. All actual compensatory damages suffered;
- b. Statutory damages of \$1,000.00;
- c. Plaintiff's attorneys' fees and costs;
- d. Any other relief deemed appropriate by this Honorable Court.

Respectfully submitted,
SHAWN PIERCE
By: 

David M. Marco
Attorney for Plaintiff

Dated: April 17, 2013

David M. Marco (Atty. No.: 6273315)
SMITHMARCO, P.C.
205 North Michigan Avenue, Suite 2940
Chicago, IL 60601
Telephone: (312) 546-6539
Facsimile: (888) 418-1277
E-Mail: dmarco@smithmarco.com

EXHIBIT A

July 30, 2011

Shawn Pierce
[REDACTED]
[REDACTED]

EOS CCA
700 LONGWATER DR
NORWELL, MA 02061

Re: Acct # [REDACTED] 5742

To Whom It May Concern:

I just pulled a copy of my credit report and noticed that your agency is reporting that I owe you a debt. I was not aware of this debt until now, and under my rights under the FDCPA, I request that you validate this debt.

This is a notice sent pursuant to the Fair Debt Collection Practices Act, 15 USC 1692g Sec. 809
(b) that your claim is disputed and validation is requested.

This is NOT a request for "verification" or proof of my mailing address, but a request for VALIDATION made pursuant to the above named Title and Section. I respectfully request that your offices provide me with competent evidence that I have any legal obligation to pay you.

Please provide me with the following:

- * What the money you say I owe is for;
- * Explain and show me how you calculated what you say I owe;
- * Provide me with copies of any papers that show I agreed to pay what you say I owe;
- * Provide a verification or copy of any judgment if applicable;
- * Identify the original creditor;
- * Prove the Statute of Limitations has not expired on this account
- * Show me that you are licensed to collect in my state
- * Provide me with your license numbers and Registered Agent

At this time I will also inform you that if your offices have reported invalidated information to any of the 3 major Credit Bureau's (Equifax, Experian or TransUnion) this action might constitute fraud under both Federal and State Laws.

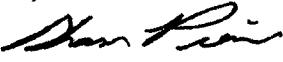
If your offices are able to provide the proper documentation as requested in the following Declaration, I will require at least 30 days to investigate this information and during such time all collection activity must cease and desist.

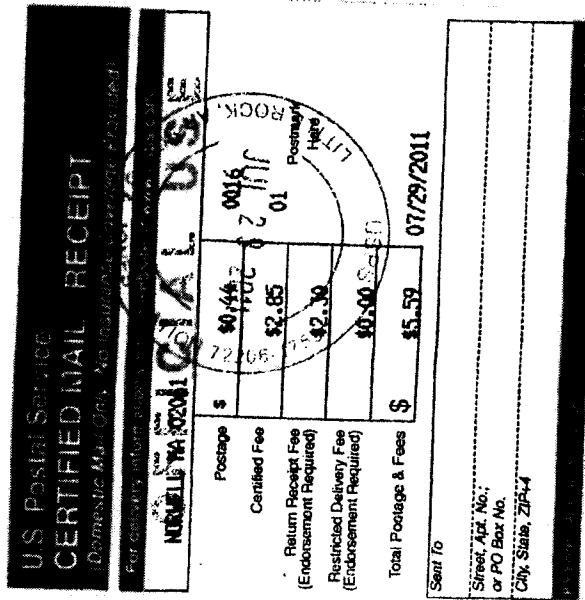
If your offices fail to respond to this validation request within 30 days from the date of your receipt, all references to this account must be deleted and completely removed from my credit file and a copy of such deletion request shall be sent to me immediately.

I would also like to request, in writing, that no telephone contact be made by your offices to my home or to my place of employment. All future communications with me MUST be done in writing and sent to the address noted in this letter by USPS.

This is an attempt to correct your records, any information obtained shall be used for that purpose.

Best Regards,


Shawn Pierce



SENDER INFORMATION

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

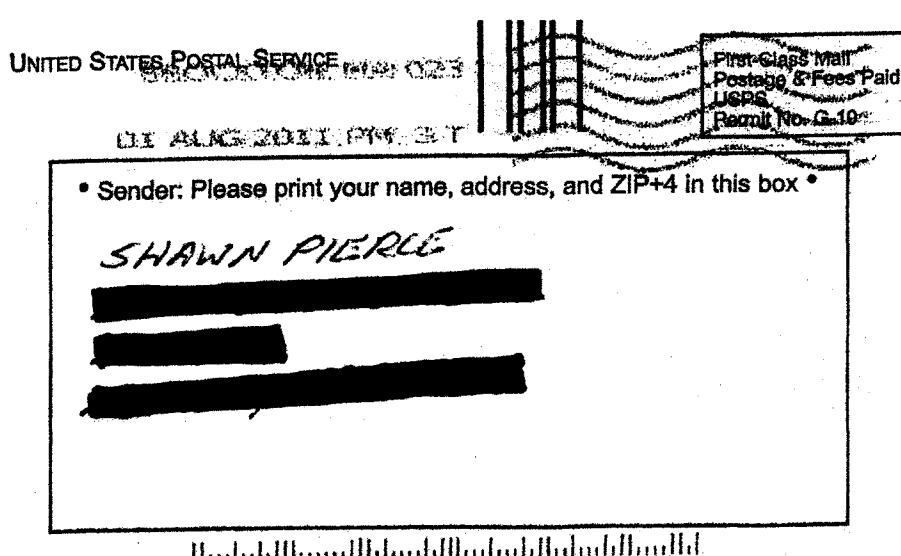
*EOS CCA
700 LONGWATER DR.
NORWELL, MA 02061*

A. Signature		<input type="checkbox"/> Agent
<i>[Signature]</i>		<input type="checkbox"/> Addressee
B. Mailed by (Printed Name)	C. Date of Delivery	<i>8/1</i>
D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No		
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		

2. Article Number

(Transfer from service label)

7010 3090 003 7470 2385



• Sender: Please print your name, address, and ZIP+4 in this box •

SHAWN PIERCE

EXHIBIT B



EOS CCA
700 LONGWATER DRIVE
NORWELL, MA 02061

Toll Free : 1-877-277-3770
Phone Number: 1-972-392-0468

December 20, 2012

Office Hours:
 Monday - Thursday: 8:00 AM - 9:00 PM CT
 Friday: 8:00 AM - 5:00 PM CT
 Saturday: 8:00 AM - 12:00 PM CT

NOTICE OF COLLECTION PLACEMENT

RE:

Your Account with our Client: **US ASSET MANAGEMENT INC**
 Client Reference #: **367006079**
 Agency Account #: **████████553**
 Original Creditor, if different from Client: **AT&T MOBILITY**

Principal:	\$	1102.66
Interest:	\$	280.97
Fees/Coll Costs:	\$	198.49
Other Accounts:	\$	0.00
Total Due:	\$	1582.12

US ASSET MANAGEMENT INC has placed your account with us for collection. This is a demand for payment of your debt. We urge you to remit payment to our office, unless you dispute this debt. If you dispute this debt, please see the reverse side of this notice for important rights.

If mailing your payment, please detach the coupon below and include with your payment in the enclosed envelope. Please complete the reverse side of the coupon if you wish to pay your bill with your credit card by mail.

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Note: Your account may be accruing interest on a daily basis; please contact our office for an exact payoff amount.

We may report information about your account to credit bureaus.

To make a payment by touch tone phone, on the web or by credit card, please see reverse side.

PLEASE SEE REVERSE SIDE FOR IMPORTANT RIGHTS
 PDP-6270553-1-122012-341-32171-112 ✕ Detach Bottom Portion And Return With Payment ✕



EOS CCA
PO BOX 296
NORWELL, MA 02061-0296
FORWARD SERVICE REQUESTED

Account # :	Client Reference # :	Total Due :
6270553	367006079	██████████
Client : US ASSET MANAGEMENT INC		

PERSONAL & CONFIDENTIAL
 PDP-6270553-1-122012-341-32171-112



*****AUTO**3-DIGIT 720
 SHAWN PIERCE



ALL PAYMENTS AND CORRESPONDENCE TO

EOS CCA
PO BOX 5055
NORWELL, MA 02061-5055



FEDERAL LAW

Unless you dispute the validity of this debt, or any portion thereof, within thirty days after receipt of this notice, we shall assume the debt to be valid. If you notify us in writing of your dispute within this thirty-day period, we will obtain verification of the debt, or a copy of a judgment against you, and a copy of such verification or judgment will be mailed to you. Upon your written request within the thirty-day period, we will provide you with the name and address of the original creditor, if different from the current creditor.

PHONE OR WEB PAYMENT

To make an automated payment via your touch tone phone, please call 877-365-9900, or to make a secure on-line payment via the web, please visit eoscca.solvemydebt.com. When prompted, please enter your account number and security code as provided below.

Account Number: **[REDACTED]0553**

Security Code: **006079**

If you wish to pay by VISA or MasterCard, fill in the information below and return.

Credit Card Number

Check One:

<input type="checkbox"/>	<input checked="" type="checkbox"/> VISA	<input type="checkbox"/>	<input type="checkbox"/> MASTERCARD
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<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

AMERICAN
EXPRESS

Payment Amount: \$ <input type="text"/>	Expiration Date: <input type="text"/> / <input type="text"/>
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Card Holder Name

Signature of Card Holder

Date

EXHIBIT C

December 26, 2012

Shawn Pierce
[REDACTED]
[REDACTED]

EOS CCA
700 Longwater Drive
Norwell, MA 02061
Re: Acct # [REDACTED] 0553

To Whom It May Concern:

This is a notice sent pursuant to the Fair Debt Collection Practices Act, 15 USC 1692g Sec. 809
(b) that your claim is disputed and validation is requested.

This is NOT a request for "verification" or proof of my mailing address, but a request for VALIDATION made pursuant to the above named Title and Section. I respectfully request that your offices provide me with competent evidence that I have any legal obligation to pay you.

Please provide me with the following:

- * What the money you say I owe is for;
- * Explain and show me how you calculated what you say I owe;
- * Provide me with copies of any papers that show I agreed to pay what you say I owe;
- * Provide a verification or copy of any judgment if applicable;
- * Identify the original creditor;
- * Prove the Statute of Limitations has not expired on this account
- * Show me that you are licensed to collect in my state
- * Provide me with your license numbers and Registered Agent

At this time I will also inform you that if your offices have reported invalidated information to any of the 3 major Credit Bureau's (Equifax, Experian or TransUnion) this action might constitute fraud under both Federal and State Laws.

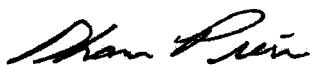
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I would also like to request, in writing, that no telephone contact be made by your offices to my home or to my place of employment. All future communications with me MUST be done in writing and sent to the address noted in this letter by USPS.

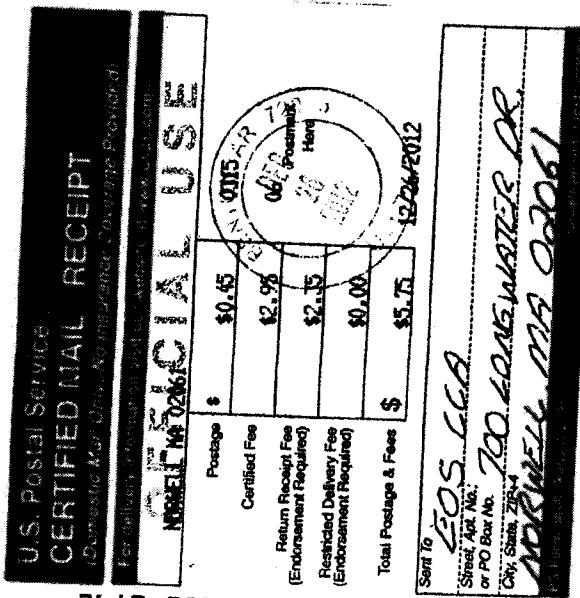
This is an attempt to correct your records, any information obtained shall be used for that purpose.

Best Regards,



Shawn Pierce

SENDER INFORMATION		RECIPIENT INFORMATION	
<p>■ Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>			
<p>1. Article Addressed to:</p> <p><i>EOS CCA 700 LONGWATER DR NORWELL, MA 02061</i></p>		<p>A. Signature</p> <p><i>X, Heyler</i></p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Recipient by (Printed Name)</p> <p><i>Heyler</i></p> <p>C. Date of Delivery</p> <p><i>12/25</i></p> <p>D. Is delivery address different from Item 1? <input type="checkbox"/> Yes <i>(Signature)</i> <input type="checkbox"/> No</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>			
<p>2. Article Number (Transfer from service label)</p> <p><i>7012 1010 0002 7552 1796</i></p>			
PS Form 3811, February 2004		Domestic Return Receipt	
10288-02-M-1540			



UNITED STATES POSTAL SERVICE



**First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10**

- **Sender:** Please print your name, address, and ZIP+4 in this box •

SHAWN PIERCE